



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2020-0387; FRL-10024-93-Region 5]

Air Plan Approval; Indiana; Emissions Reporting Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the Indiana State Implementation Plan (SIP) submitted on July 16, 2020, by the Indiana Department of Environmental Management (IDEM). The revision incorporates changes to Indiana's existing emission reporting rule to be consistent with the emissions statement requirements in the Clean Air Act (CAA). The CAA requires stationary sources in ozone nonattainment areas to submit annual emissions statements. The revision to the rule extends the requirements in Indiana's emission reporting rule to Clark and Floyd counties, which were designated nonattainment under the 2015 ozone National Ambient Air Quality Standard (NAAQS) in 2018, and removes the requirement for Lawrenceburg Township in Dearborn County and to LaPorte County, because these areas are currently designated attainment for the 1997, 2008 and 2015 ozone standards.

DATES: This final rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2020-0387. All documents in the

docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through www.regulations.gov or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19. We recommend that you telephone Charles Hatten, Environmental Engineer, at (312) 886-6031 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Charles Hatten, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6031, hatten.charles@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

I. What is being addressed in this document?

This rule acts on the July 16, 2020 request from the IDEM to incorporate revisions to Indiana's emission reporting rule, 326 IAC 2-6. An explanation of the CAA requirements, a detailed analysis of the revisions, and EPA's reasons for proposing

approval were provided in EPA's notice of proposed rulemaking (NPRM), dated February 11, 2021 (86 FR 9036), and will not be restated here.

II. What comments did we receive on the proposed rule?

In the NPRM, EPA provided a 30-day review and comment period for the proposed rule. The comment period ended on March 15, 2021. We received three comments during the comment period. The full comments are in the rulemaking docket, see Addresses for details on accessing the docket.

Two of the comments received were supportive of EPA's action. Comments from a third individual expressed several issues of concern not addressed in EPA's proposed rulemaking. Those comments are summarized and addressed below.

Comment: The commenter asserted that the decision to remove reporting requirements for Lawrenceburg Township and LaPorte County could have permanent impacts on Indiana's citizens. IDEM should reconsider removing the two areas from attainment.

Response: Because Lawrenceburg Township and LaPorte County have demonstrated attainment with the ozone NAAQS, EPA designated them as attainment areas under Section 107(d) of the CAA on June 4, 2018 (83 FR 25776). Consequently, section 182(a)(3)(B) of the CAA authorizes IDEM to remove the emissions reporting requirements for those two areas. The commenter's suggestion that IDEM should remove the ozone attainment

designation status for LaPorte County and Lawrenceburg Township in Dearborn County is outside the scope of this rulemaking.

Comment: The commenter noted that the Federal website, Airnow.com, shows acceptable levels of ozone in all the counties involved. The commenter expressed concern about ozone's adverse biophysical impact, especially in those with chronic respiratory conditions, but acknowledged that those impacts of this rulemaking should remain minimal.

Response: EPA agrees that ozone causes adverse health effects. As noted above, EPA has designated both Lawrenceburg Township (Dearborn County) and LaPorte County as areas that have attained the applicable NAAQS for ozone.

Comment: The commenter expressed concern that the proposal did not consider the potential for ozone levels rising in attainment areas and the potential repercussions of not recording ozone levels. The commenter further stated that, if the State discontinues recording ozone emission rates and they rise beyond a safe level, this could cause negative economic impacts and endanger the health of residents.

Response: This action addresses the requirement for stationary sources to report emissions of volatile organic compounds (VOC) and oxides of nitrogen (NO_x). It does not affect Indiana's requirements with respect to ozone monitoring. Indiana remains obligated to meeting ozone monitoring requirements and to continue to quality-assure monitoring data in accordance with 40 CFR part 58, and to enter all data into

EPA's air quality system (AQS) in accordance with Federal guidelines. EPA and IDEM continue to monitor ozone to ensure concentrations remain below the NAAQS.

Comment: The commenter claimed that not requiring certain areas to report ozone emissions can lead to ignored regulations and increased pollution. The commenter further noted that, even if an area has good air quality, it is still our responsibility to prevent ozone levels from becoming worse. The commenter suggested that all municipalities involved continue to report ozone levels as if they were not in attainment of the ozone standard.

Response: As discussed previously, this action does not affect Indiana's requirements with respect to ozone monitoring. Indiana remains obligated to meet ozone monitoring requirements and continue to quality assure monitoring data in accordance with 40 CFR part 58, and to enter all data into EPA's AQS in accordance with Federal guidelines. Further, this does not relieve sources in any of the areas from existing controls on ozone precursors. In addition, while sources in Lawrenceburg Township in Dearborn County and LaPorte County are no longer subject to the emissions reporting requirements of 326 IAC 2-6, all areas in the state remain subject to EPA's Air Emission Reporting Rule (AERR) under 40 CFR 51, subpart A. The AERR requires states to collect and report annual emissions directly to EPA, including emissions of all criteria pollutants (and/or precursors) from all sources (point, non-point, on-road, and

off-road mobile source types) regardless of an area's attainment status.

Comment: The commenter asserted that ozone levels do not currently impact the economies of the counties mentioned in this action. The commenter expressed the concern, however, that while steel mills play a large part in Indiana's economy, providing jobs and stability, they also contribute to pollution that threatens Indiana's citizens. The commenter further asserted that nitrogen dioxide and ozone pollution cost billions of dollars and lead to millions of premature deaths; and that, by taking precautionary steps, these costs will be reduced in the long run.

Response: These comments address subjects outside the scope of our proposed action. EPA notes, however, that the commenter does not explain (or provide a legal basis for) how the final rule should differ in any way from the proposed action. That being said, it should be reiterated that both EPA and IDEM continue to monitor ozone to ensure concentrations remain below the NAAQS.

III. What action is EPA taking?

EPA is approving the revision to the emission reporting rule, 326 IAC 2-6-1, into Indiana's SIP, as submitted on July 16, 2020, to address the CAA emission statement requirement in section 182(a)(3)(B).

IV. Incorporation by Reference.

In this rule, EPA is finalizing regulatory text that

includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Indiana Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available through www.regulations.gov, and at the EPA Region 5 Office (please contact the person identified in the **"FOR FURTHER INFORMATION CONTACT"** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.¹

V. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

¹ 62 FR 27968 (May 22, 1997).

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or

environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS**

AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: June 9, 2021.

Cheryl Newton,
Acting Regional Administrator, Region 5.

For the reasons stated in the preamble, EPA amends title 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 52.770, the table in paragraph (c) is amended by revising the entry for “2-6-1” under “Article 2. Permit Review Rules”, “Rule 6. Emission Reporting”, to read as follows:

§ 52.770 Identification of plan.

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(c) * * *

EPA-APPROVED INDIANA REGULATIONS

Indiana Citation	Subject	Indiana effective date	EPA approval date	Notes
* * *	* * *	* * *		
Article 2. Permit Review Rules				
* * *	* * *	* * *		
Rule 6. Emission Reporting				
2-6-1	Applicability	4/24/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
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